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Applicant: Michael Rosenbauer et al
Title: WASHING CONTAINER FOR A DISH-WASHING MACHINE
Date of Deposit May 9, 2007
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Appeal Brief (22 Pages);
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May 9, 2007

Date of Deposit

Russell W. Warnock

Name of Person Signing

Russell W. Warnock
Signature

Russell W. Warnock, Reg. No. 32,860
Printed Name



Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL

For FY 2005

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)
500.00

Complete if Known

| | |
|----------------------|--------------------------|
| Application Number | 10/603,759 |
| Filing Date | 06/25/2003 |
| First Named Inventor | Michael Rosenbauer et al |
| Examiner Name | Hanh Van Tran |
| Art Unit | 3637 |
| Attorney Docket No. | 2000P13035WOUS |

METHOD OF PAYMENT (check all that apply)

Check Credit Card Money Order None Other (please identify): _____

Deposit Account Deposit Account Number: 502786 Deposit Account Name: BSH Home Appliances Corp.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

| <u>Application Type</u> | <u>FILING FEES</u> | | <u>SEARCH FEES</u> | | <u>EXAMINATION FEES</u> | | <u>Fees Paid (\$)</u> |
|-------------------------|--------------------|---------------------|--------------------|---------------------|-------------------------|---------------------|-----------------------|
| | <u>Fee (\$)</u> | <u>Small Entity</u> | <u>Fee (\$)</u> | <u>Small Entity</u> | <u>Fee (\$)</u> | <u>Small Entity</u> | |
| Utility | 300 | 150 | 500 | 250 | 200 | 100 | _____ |
| Design | 200 | 100 | 100 | 50 | 130 | 65 | _____ |
| Plant | 200 | 100 | 300 | 150 | 160 | 80 | _____ |
| Reissue | 300 | 150 | 500 | 250 | 600 | 300 | _____ |
| Provisional | 200 | 100 | 0 | 0 | 0 | 0 | _____ |

2. EXCESS CLAIM FEES

Fee Description

Each claim over 20 (including Reissues) Fee (\$) Small Entity Fee (\$)

Each independent claim over 3 (including Reissues) Fee (\$) Small Entity Fee (\$)

Multiple dependent claims Fee (\$) Small Entity Fee (\$)

| <u>Total Claims</u> | <u>Extra Claims</u> | <u>Fee (\$)</u> | <u>Fee Paid (\$)</u> | <u>Multiple Dependent Claims</u> | <u>Fee (\$)</u> | <u>Fee Paid (\$)</u> |
|--------------------------|-----------------------|-----------------|----------------------|----------------------------------|-----------------|----------------------|
| _____ - 20 or HP = _____ | _____ x 50.00 = _____ | | | | 50 | 25 |

HP = highest number of total claims paid for, if greater than 20.

| <u>Indep. Claims</u> | <u>Extra Claims</u> | <u>Fee (\$)</u> | <u>Fee Paid (\$)</u> | <u>Fee (\$)</u> | <u>Fee Paid (\$)</u> |
|-------------------------|------------------------|-----------------|----------------------|-----------------|----------------------|
| _____ - 3 or HP = _____ | _____ x 200.00 = _____ | | | 200 | 100 |

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

| <u>Total Sheets</u> | <u>Extra Sheets</u> | <u>Number of each additional 50 or fraction thereof</u> | <u>Fee (\$)</u> | <u>Fee Paid (\$)</u> |
|---------------------|---------------------|---|-----------------------|----------------------|
| _____ - 100 = _____ | _____ / 50 = _____ | (round up to a whole number) | _____ x _____ = _____ | |

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Appeal Brief Fee Fees Paid (\$)

SUBMITTED BY

| | | | |
|-------------------|---------------------------|---|------------------------|
| Signature | <u>Russell W. Warnock</u> | Registration No. (Attorney/Agent) 32,860 | Telephone 252-672-7927 |
| Name (Print/Type) | Russell W. Warnock | | Date May 9, 2007 |

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Attorney Docket No. 2000P13035WOUS

UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Michael Rosenbauer et al
Application Number: 10/603,759
Filing Date: 06/25/2003
Group Art Unit: 3637
Examiner: Hanh Van Tran
Title: WASHING CONTAINER FOR A DISH-WASHING
MACHINE

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Pursuant to 37 CFR 1.192, Appellants hereby file an appeal brief in the above-identified application. This Appeal Brief is accompanied by the requisite fee set forth in 37 CFR 1.17(f).

(1) REAL PARTY IN INTEREST

The real party in interest is BSH Bosch und Siemens Hausgeraete GmbH.

(2) RELATED APPEALS AND INTERFERENCES

5/11/2007 CNEGA1 00000022 502786 10603759
01 FC:1402 500.00 DA

There are no appeals or interferences that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) STATUS OF CLAIMS

Claims 10-14 and 16-26 are pending in the application and have been finally rejected. Claim 15 has been cancelled. The final rejection of claims 10-14 and 16-25 is being appealed. The final rejection of claim 26 is not being appealed.

(4) STATUS OF AMENDMENTS

In response to the Final Rejection dated November 16, 2006, a Notice of Appeal was received in the US Patent Office on March 12, 2007. No amendment has been filed subsequent to the Final Rejection dated November 16, 2006.

(5) SUMMARY OF CLAIMED SUBJECT MATTER

Independent Claim 10 of the present application recites a washing container for a dishwashing machine, including a container body including a plurality of assembled parts, a base frame part 1, and at least one cover part 5 attached to the base frame part (Page 3, lines 13 – 26, and Figure 1 of the present application). The cover part 5 includes a plurality of side parts 6 and the side parts 6 are connected to one another at an angle to form the cover part (Page 3, lines 26 – 28, and Figure 1 of the present application). One of the side parts can be a heat exchanger 12 (Page 4, lines 23 – 24, and Figure 3 of the present application). The upstanding side part may also include additional retention functional elements 9,

including at least one receptacle retention element for one of a rinsing or cleaning agent or a water softening device (Page 4, lines 9 – 18, and Figures 1, 3, and 4 of the present application).

The cover part may include three side parts connected to one another to form a substantially U-shaped cover part having an open end. Further, the base frame part may include an upstanding side part 8 located in the U-shaped cover part open end completing the cover part (Page 3, lines 27 – 31, and Figures 1, 2, and 4 of the present application). Alternately, the base frame part 1 and the upstanding side part may be formed as a unitary assembly and may also be formed from a molded plastic material with the cover part 5 formed from a corrosion-resistant material

According to independent Claim 20, the present invention is directed to a washing container for a dishwashing machine, including a container body including a plurality of assembled parts and a base frame part 1, with the base frame part having a floor part 2 and at least two upstanding corner stays 4 (Page 3, lines 13 – 26, and Figure 1 of the present application). The at least one cover part 5 is attached to the base frame part 1, with the cover part including a plurality of side parts 6 (Page 3, lines 26 – 28, and Figure 1 of the present application). The side parts are connected to one another at an angle to form a substantially U-shaped periphery of the cover part, the substantially U-shaped periphery of the cover part having an open end and a closed end opposite the open end. The cover part is attached to the base frame part with its U-shaped periphery mounted on the floor part of the base frame part. Further, the cover part is attached at a respective one of its open end and its closed end to the at least two upstanding corner stays (Paragraphs 0012-0013 and Figure 1).

As set forth in independent Claim 25, the present invention is directed to a washing container for a dishwashing machine, including a container body formed from a plurality of assembled parts including a base frame part 1, the base frame part having a floor part 2 and at least two upstanding corner stays 4 (Page 3, lines 13 – 26, and Figure 1 of the present application) and an upstanding side part 6 (Page 3, lines 26 – 28, and Figure 1 of the present application). At least one cover part 5 is attached to the base frame part 1 with the cover part 5 including a plurality of side portions collectively forming a substantially U-shaped periphery with one of the side portions forming a closed end of the substantially U-shaped periphery and the cover part also having an open end located opposite the closed end of the substantially U-shaped periphery of the cover part. The cover part is attached to the base frame part 1 with its U-shaped periphery mounted on the floor part of the base frame part with the substantially U-shaped periphery of the cover part 5 being attached at its the closed end to the at least two upstanding corner stays 4. The upstanding side part of the base frame part 1 is located in the open end of the cover part 5, whereby the substantially U-shaped periphery of the cover part 5 and the upstanding side part of the base frame part 1 together form a closed periphery.

(6) STATEMENT OF THE ISSUES

- a. Whether claims 10-13, 18, 20-21, 23 and 25-26 are unpatentable under 35 U.S.C. § 102(b) as being anticipated by EP Patent No. 556787 to Premoli et al?
- b. Whether claims 10-11, 18, 20, and 22 are unpatentable under 35

U.S.C. § 102(b) as being anticipated by US Patent No. 5,368,379 to Wrangberth?

- c. Whether claims 14, 16, 17 and 24 are unpatentable under 35 U.S.C. § 103(a) over EP Patent No. 556787 to Premoli et al?
- d. Whether claim 19 is unpatentable under 35 U.S.C. § 103(a) over EP Patent No. 556787 to Premoli et al in view of US Patent No. 3,658,075 to Jacobs?

GROUPING OF THE CLAIMS

Claims 10-13, 18, 20-21, 23 and 25 may be considered as a single group of claims with respect to the rejection thereof as unpatentable under 35 U.S.C. § 102(b) as being assertedly anticipated by EP Patent No. 556787 to Premoli et al.

Claims 10-11, 18, 20, and 22 may be considered as a single group of claims with respect to the rejection thereof as unpatentable under 35 U.S.C. § 102(b) as being assertedly anticipated by US Patent No. 5,368,379 to Wrangberth.

Claims 14, 16, 17 and 24 may be considered as a single group of claims with respect to the rejection thereof as unpatentable under 35 U.S.C. § 103(a) over EP Patent No. 556787 to Premoli et al.

Claim 19 may be considered as a single group of claims with respect to the rejection thereof as unpatentable under 35 U.S.C. § 103(a) over EP Patent No. 556787 to Premoli et al in view of US Patent No. 3,658,075 to Jacobs.

THE REFERENCES

EP Patent No. 556787 to Premoli et al (Premoli et al '787) is directed to a dishwashing machine including a washing chamber and a cabinet with the cabinet having a base and an upper part (Col. 1, Lines 1-3). Figure 1 of Premoli et al '787 schematically represents an element in plastic material of a dishwashing machine formed as a single piece. (Col. 3, Lines 24-27). The dishwashing machine disclosed in Premoli et al '787 includes a base 1 formed as a rectangle with two upstanding support stanchions, 2a, 2b that support a skirt. (Col. 1, Lines 34-35). A vent is provided and illustrated at 3. (Col. 1, Lines 50-53). A variation appears in Figures 7-9. There, an en-bloc (*sic*) 22, 22' is provided for built-in machines. As seen in Figure 9, the lower parts of the sidewalls 23' and of the rear wall 44 also have steps and pinch-folds, through which the fixing between the upper part of the base of the cabinet of the dishwashing machine is obtained. (Col. 6, Lines 51-54). As seen in Figure 2, reference numeral 7 indicates the rails of the lower basket 10. Reference numeral 11 indicates the connection in the sealing system between the stainless steel skirt of the chamber 12 and the plastic base. The stainless steel skirt of the chamber 12 is sealed against the plastic base to prevent water loss. (Col. 4, Lines 23-34).

US Patent No. 5,368,379 to Wrangberth (Wrangberth '379) discloses a dishwasher chassis having a tub portion or base 10 and an upper part 11 which together enclose a dish basket on which dishes are stored. (Col. 1, Lines 62-64). The upper part 11 has two sidewalls 12, a rear wall 13 and a roof 14. The lower part of each side wall has a projecting flange 15 with holes 16 for fastening the

upper part of the base (Col. 1, Lines 65-68; Col. 2, Line 1). The open side of the tub is provided with a door (not shown) which is supported on dowels 18 arranged on each side of the base 10. (Col. 2, Lines 4-6).

US Patent No. 3,658,075 to Jacobs (Jacobs '075) discloses a dishwasher having a heat exchanger or dehumidifier indicated at 60 mounted on the back wall 62 of the chamber 18 for removing moisture from the vapor within the dishwashing chamber when the dishes are being dried (Col. 2, Lines 68-71, Figure 1).

(7) ARGUMENT

- a. Whether claims 10-13, 18, 20-21, 23 and 25 are unpatentable under 35 U.S.C. § 102(b) as being assertedly anticipated by EP Patent No. 556787 to Premoli et al ?

The Examiner has indicated that claims 10-13, 18, 20-21, 23 and 25 are unpatentable under 35 U.S.C. § 102(b) over EP Patent No. 556787 to Premoli et al. The Examiner indicates that Premoli et al '787 discloses "all the elements recited in the above listed claims including, such as shown in Figs 7-9, a container body having a plurality of assembled parts, a base frame 1', at least one cover part 22' attached to the base frame part 1', said cover part including a plurality of side parts 23', 44, said side parts connected to one another at an angle to form a substantially U-shaped cover part 22' having an open end, the base frame part having an upstanding side part 28, said upstanding side part located in said U-shaped cover part open end completing said cover part, said base frame part 1'

and said upstanding side part 28 formed as a unitary assembly, said base frame part and said upstanding side part unitary assembly formed from a molded plastic material and said cover part formed from a corrosion-resistant material, said base frame part including a filter floor part 4 (col. 3, lines 53-58)." The Examiner therefore asserts that the claimed invention is anticipated by Premoli et al '787. However, as will be explained in greater detail hereinafter, it is respectfully submitted that Premoli et al '787 does not anticipate the present invention as recited in the claims under appeal (Official Action, paragraph 9).

The structure disclosed in Premoli '787 that is relied on in the Official Action as a disclosure of a washing container for a dishwashing machine is actually a cabinet. Premoli '787 in fact discloses an entire other separate structure than this cabinet that serves as the washing container. Specifically, the washing container of the Premoli et al '787 arrangement is formed by a stainless steel skirt 12. Accordingly, rather than disclosing a washing container of the type described in the present application relating to a fully plastic container, Premoli et al '787 discloses, on the one hand, a structure – namely, an outer cabinet for a dishwashing machine – that has nothing to do with a washing container for a dishwashing machine and, on the other, discloses a conventional structure – the stainless steel skirt 12 – that actually forms a washing container.

Moreover, the structure of which the Examiner refers to as corner stays illustrated at 2a, 2b as seen in Figure 7 of the Premoli et al '787 arrangement are not corner elements or corner stays, as described in the present application, since, primarily, the corner stays illustrated at 2a, 2b as seen in Figure 7 of the Premoli et al '787 arrangement do not bend through 90 degrees to form a corner. In figure 7 of Premoli et al '787, reference numerals 2a', 2b' and 43 show respectively two lateral stanchions of reduced height compared to those in Figure 1, and a rear

support stanchion, destined to bear the superior part of cabinet (column 6, lines 12-19). As can be seen in figure 9, the lower part of the sidewalls 23 and of the rear wall 44 also have steps and pinch-folds, through which the fixing between the upper part and base of the cabinet of the dishwashing machine is obtained, as already previously mentioned (column 6, lines 51-56). According to that previously mentioned, reference numeral 7 indicates the rails of the lower basket, indicated with 10; reference numeral 11 indicates the connection and sealing system between the stainless steel skirt of the chamber indicated with 12, and the plastic base. The steel sheet that constitutes the skirt of the chamber is pinch-folded in 13 creating a supplementary edge for protection against water loss. In 14, seal of rubber or other equivalent material is indicated. The seal is held under pressure by suitable brackets 15 screwed to the plastic base and causing pressure on the steel sheet edge. (column 4, lines 23-35). Therefore, Premoli et al '787 does not disclose, teach or suggest corner stays, as claimed in the present application.

Further, the Examiner refers to the structure illustrated at reference numeral 28 in Figure 5 as 'an upstanding side part located in the U-shape cover part open end completing the cover part with the base frame part 1 and the upstanding side part 28 formed as a unitary assembly (Final Official Action, Paragraph 9). In actuality, the structural element referred to by the Examiner is a door, as seen at 28 in Figure 5 and, accordingly, cannot be formed as a unitary assembly with the cover part because the door must move inwardly and outwardly from the open end. As stated in Premoli et al '787 and shown in Figure 5 thereof, a door for traditional dishwashing machines in metal is represented with reference no. 28 indicating the internal part of the door or door lining in stainless steel (column 5, lines 36-40).

Therefore, since Premoli et al '787 is directed to a different structure, i.e. the inner and outer coverings of a dishwashing machine, it cannot be said to anticipate the washing container of the present invention. In addition, the lateral stanchions of Premoli et al '787 are substantially different structures than the corner stays of the present application. Further, the sealing between the stainless steel skirt of the Premoli et al '787 cabinet and its plastic base is separate and distinct structure from the cabinet top illustrated in figure 9.

Further, Applicant submits that EP 0 556 787 to Premoli does not teach or disclose the feature recited in claim 10 of the present application of a cover part attached to the base frame part, wherein the cover part includes a plurality of side parts and the side parts are connected to one another at an angle to form the cover part. Instead, Premoli et al '787 discloses a dishwashing machine wherein the outer cabinet part is a unitary monopiece. This is contrary to the invention of the instant application as claimed, in which a cover part for a washing container includes a plurality of side parts connected to one another at an angle to form the cover part.

Even if Premoli et al '787 could be considered applicable to the present invention, the Premoli et al '787 structure is so substantially different from that of the present invention Premoli et al '787 is incapable of anticipating the present invention.

Thus, Appellants submit that the washing container recited in the finally rejected claims 10-13, 18, 20-21, 23 and 25 is neither taught nor disclosed by Premoli et al '787.

b. Whether claims 10-11, 18, 20, and 22 are unpatentable under 35 U.S.C. § 102(b) as being assertedly anticipated by US Patent No. 5,368,379 to Wrangberth?

The Examiner has indicated that claims 10-11, 18, 20, and 22 are unpatentable under 35 U.S.C. § 102(b) over US Patent No. 5,368,379 to Wrangberth.

The Examiner has asserted that Wrangberth '379 discloses a washing container for a washing machine comprising all the elements recited in the claims including, such as shown in Figures 1-2, the container body including a plurality of assembled parts; a base frame part 10, with the base frame part having a floor part 19 and at least two upstanding corner stays 26; and at least one cover part 11 attached to the base frame part. The cover part 11 includes a plurality of side parts, the side parts being connected to one another at an angle to form a substantially U-shaped periphery of the cover part, the substantially U-shaped periphery of said cover part having an open end and a closed end opposite the open end and said cover part being attached to said base frame part with its U-shaped periphery mounted on said floor part 19 of the base frame part, such as shown in Figure 2, and said cover part 11 being attached at respective one of its open end and its closed end to said at least 2 upstanding corner stays wherein said cover part is attached internally, Figure 2, to said at least two upstanding corner stays of the base frame part, and formed substantially in the shape of a peripherally closed rectangle (Official Action, paragraph 10).

Wrangberth '379 fails on several levels to disclose the present invention as claimed. Initially, the Wrangberth '379 chassis includes a unitary tub 14 forming

the entire top portion of the dishwasher chassis which is open at the front and closed by a door (not shown). Further, the side rails of the Wrangberth '379 chassis fail to function as the upstanding corner stays of the present invention. According to the present invention, the corner stays 4 extend vertically upwardly with the corner stays having an L-shaped or angular cross-section. (Paragraph 0012 of Wrangberth '379). The present corner stays are designed to reach upwardly substantially the height of the U-shaped wall members of the present invention to provide structural support therefore. Therefore, the side rails of Wrangberth '379 fail to function like the corner stays of the present invention. Further, the Wrangberth '379 side rails are structurally dissimilar from the corner stays of the present invention, and should not even be addressed as corner stays. Finally, since Wrangberth '379 does not disclose a U-shaped periphery for its tub, Wrangberth '379 cannot be said to anticipate the present invention.

Thus, Appellants submit that the washing container recited in the finally rejected claims 10-11, 18, 20, and 22 is neither taught nor disclosed by US Patent No. 5,368,379 to Wrangberth.

c. Whether claims 14, 16, 17 and 24 are unpatentable under 35 U.S.C. § 103(a) over EP Patent No. 556787 to Premoli et al?

The Examiner has indicated that Claims 14, 16, 17 and 24 are unpatentable under 35 USC § 103(a) as being unpatentable over Premoli et al '787. The Examiner asserts that Premoli et al '787 discloses all the elements in the listed claims except for, in Claim 14, the base frame part and the upstanding part being of unitary assembly and formed from a molded plastic material; in Claim 16, the peripherally closed rectangle cover part is formed with two substantially L-shaped

side parts; and in Claim 17 and 24, the upstanding side part includes additional retention functional elements including at least one receptacle retention element. Applicants submit that none of the structural features recited above are present in the Premoli et al '787 reference. Further, there is nothing to teach or suggest the limitations of the rejected claims in the Premoli et al '787 reference.

The Examiner asserts that it is well known in the art to make parts for the dishwashing machine out of various materials including molded plastic. The Premoli et al '787 reference does not discuss any molded plastic material and fails to render the present invention obvious. Further, while it may be known to make certain dishwashing pieces out of plastic, it is not known at all to make the inventive dishwasher structure of the present invention from plastic.

The Examiner asserts that it would have been obvious to form two substantially L-shaped side parts instead of one U-shaped side part. The side parts of the present invention are not U-shaped but rather the cover part is U-shaped. In addition, there is nothing in the Premoli et al '787 reference to indicate that the cabinet material could be formed from two L-shaped portions. The structure cited by the Examiner in support of an asserted Premoli et al '787 cover part does not naturally or unnaturally lend itself to being formed from two L-shaped parts. Even in hindsight, when viewing the Premoli et al '787 cabinet cover in light of the present claims, it is unlikely that anyone would find structure that could be described or formed as an L-shaped part.

Finally, the Examiner admits that Premoli et al '787 does not clearly teach the limitation wherein the upstanding side parts include retention elements. Nevertheless, the Examiner continues to assert that it would have been obvious to

provide a side part 28 of Premoli et al '787 with a retention element (Official Action, paragraph 11). The so-called side part referenced by the Examiner is a door as illustrated in Figure 5, which represents a "traditional" metal door for dishwashing machines. (Column 2, Lines 29-30). Figure 5 is an illustration of a structure that is prior art to the Premoli et al '787 arrangement and, thus, is not even part of the Premoli et al '787 structure. Premoli et al '787 notes that in Figure 5, a door for traditional dishwashing machines in metal is represented; and reference numeral 28 indicates the internal part of the door, or door lining, in stainless steel; reference numeral 29 indicates the external part of the door, in sheet-plate; and reference numeral 40 indicates a control board. On the other hand, Figure 6 represents a schematically in-section door realized in plastic for the dishwashing machine according to the invention. (Column 5, Lines 36-45.) Accordingly, the structure relied on by the Examiner is described as prior art and does not discuss receptacles or retention elements of any type. It is merely a dishwasher door. On the other hand, the present invention notes that the other side part 8 which is essentially the rear of the dishwasher is provided with retention elements 9 so that additional functional elements such as containers for rinsing and/or cleaning agents or even a device for water softening can be attached to the other side part 8 (Page 4, lines 9 – 18, and Figures 1, 3, and 4 of the present application).

Based on the above, it can be seen that the structural elements asserted by the Examiner to be obvious in light of Premoli et al '787 are not present in Premoli et al '787 and therefore Premoli et al '787 can not render the present invention obvious. Therefore, Premoli et al '787 neither anticipates nor renders obvious any of the structural features as claimed in the present application. Thus, Applicants submit that the dishwashing compartment recited in the finally rejected Claims 14, 16, 17 and 24 is neither taught nor disclosed by Premoli et al '787.

d. Whether claim 19 is unpatentable under 35 U.S.C. § 103(a) over EP Patent No. 556787 to Premoli et al in view of US Patent No. 3,658,075 to Jacobs.?

The Examiner has indicated that Claim 19 is unpatentable under 35 USC § 103 over Premoli et al '787 in view of Jacobs '075. The Examiner asserts that Premoli et al '787 discloses all the elements as discussed above except for at least one of the side parts having a heat exchanger integrated therein. Jacobs assertedly teaches the idea of providing a heat exchanger integrated with a dishwashing machine for the purpose of improving condensation means (Official Action, paragraph 13).

At the outset it should be noted that, as further clarified above, Premoli et al '787 does not disclose all the elements as discussed above. Further, the present invention does not include an integral heat exchanger. The present invention includes retention elements on a side part of the dishwasher compartment which may be configured to retain a heat exchanger. Therefore, the heat exchanger is not integral. As seen in Figure 1, the heat exchanger of Jacobs '075 is mounted to and integrated with the rear structure of the dishwashing machine as seen in Figures 1 and 2. In substantial contrast, the present invention includes retention elements which may hold a heat exchanger which is a discrete element and not integrated as asserted by the Examiner and as disclosed in Jacobs '075. Therefore, not only is a combination of Premoli et al '787 and Jacobs '075 improper since the Premoli et al '787 reference is not sufficient as a primary reference, the combination of Premoli et al '787 and Jacobs '075 will not result in the present invention.

Thus, Applicants submit that the dishwashing container recited in finally rejected Claim 19 is neither taught nor disclosed by Premoli et al '787 or Jacobs '075 taken singly or in combination.

CONCLUSION

In view of the foregoing discussion, it is respectfully requested that the Honorable Board of Patent Appeals and Interferences overrule the final rejection of Claims 10-14 and 16-25 over the cited art, and hold that the Appellants' claims be allowable over such art.

Respectfully submitted,



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May 9, 2007

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Appendix:

1 - 9. (canceled)

10. A washing container for a dishwashing machine, comprising:
a container body including a plurality of assembled parts;
a base frame part; and
at least one cover part attached to said base frame part, said cover part including a plurality of side parts, said side parts connected to one another at an angle to form said cover part.
11. The washing container according to claim 10, said cover part including three side parts connected to one another to form a substantially U-shaped cover part having an open end.
12. The washing container according to claim 11, said base frame part having an upstanding side part, said upstanding side part located in said U-shaped cover part open end completing said cover part.
13. The washing container according to claim 12, said base frame part and said upstanding side part formed as a unitary assembly.
14. The washing container according to claim 13, said base frame part and said upstanding side part unitary assembly formed from a molded plastic material and said cover part formed from a corrosion-resistant material.

15. (canceled)
16. The washing container according to claim 10, said cover part being formed substantially in the shape of a peripherally closed rectangle and said peripherally closed rectangle cover part is formed from two substantially L-shaped side parts.
17. The washing container according to claim 12, said upstanding side part including additional retention functional elements, including at least one receptacle retention element for one of a rinsing or cleaning agent or a water softening device.
18. The washing container according to claim 10, said base frame part including a filter floor part.
19. The washing container according to claim 10, at least one of said side parts including a heat exchanger integrated therein.
20. A washing container for a dishwashing machine, comprising:
a container body including a plurality of assembled parts;
a base frame part, said base frame part having a floor part and at least two upstanding corner stays; and
at least one cover part attached to said base frame part, said cover part including a plurality of side parts, said side parts connected to one another at an angle to form a substantially U-shaped periphery of said cover part, said substantially U-shaped periphery of said cover part having an open end

and a closed end opposite said open end, and said cover part being attached to said base frame part with its U-shaped periphery mounted on said floor part of said base frame part and said cover part being attached at a respective one of its open end and its closed end to said at least two upstanding corner stays.

21. The washing container according to claim 20, wherein said cover part is attached externally to said at least two upstanding corner stays of said base frame part.
22. The washing container according to claim 20, wherein said cover part is attached internally to said at least two upstanding corner stays of said base frame part.
23. The washing container according to claim 20, wherein said base frame part includes an upstanding side part, said upstanding side part located in said substantially U-shaped periphery of said cover part completing said cover part.
24. The washing container according to claim 23, wherein said upstanding side part including additional retention functional elements, including at least one receptacle retention element for one of a rinsing or cleaning agent or a water softening device.
25. A washing container for a dishwashing machine, comprising:
a container body including a plurality of assembled parts;

a base frame part, said base frame part having a floor part and at least two upstanding corner stays and an upstanding side part; and

at least one cover part attached to said base frame part, said cover part including a plurality of side portions collectively forming a substantially U-shaped periphery with one of said side portions forming a closed end of said substantially U-shaped periphery and said cover part also having an open end located opposite said closed end of said substantially U-shaped periphery of said cover part, and said cover part being attached to said base frame part with its U-shaped periphery mounted on said floor part of said base frame part with said substantially U-shaped periphery of said cover part being attached at its said closed end to said at least two upstanding corner stays, and said upstanding side part of said base frame part being located in said open end of said cover part, whereby said substantially U-shaped periphery of said cover part and said upstanding side part of said base frame part together form a closed periphery.

26. The washing container according to claim 10, wherein said cover part is formed substantially in the shape of a peripherally closed rectangle.

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EVIDENCE APPENDIX

None

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RELATED APPEALS APPENDIX

None